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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Parts 2 and 15) ET Docket No. 94-124
of the Commission's Rules to Permit)
Use of Radio Frequencies Above 40 GHz)
for New Radio Applications)

Reply Comments of Bell Atlantic¹

The Commission's proposals for allocating spectrum in this proceeding mark an important step toward a more rational spectrum management scheme, and will promote the development of innovative new technologies and services. In contrast, the proposal of some commenters that local multipoint distribution services ("LMDS") be forced to move from the 28 to the 40 GHz band would have the opposite effect. Not only would it undermine the viability of LMDS, but by denying the entrepreneurs who have developed this innovative new service the ability to benefit from their work, it also would have a chilling effect on the development of other innovative services in the future.

In general, the Commission's proposals for making the above 40 GHz bands available for commercial use are a significant improvement over the procedures historically used to allocate

¹ The telephone companies are Bell Atlantic-Delaware, Inc., Bell Atlantic-District of Columbia, Inc., Bell Atlantic-Maryland, Inc., Bell Atlantic-New Jersey, Inc., Bell Atlantic-Pennsylvania, Inc., Bell Atlantic-Virginia, Inc., Bell Atlantic-West Virginia, Inc., Bell Atlantic Personal Communications, Inc., Bell Atlantic Mobile Systems, and Bell Atlantic Enterprises Business Development, Inc.

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spectrum.² This is particularly true to the extent the Commission proposes to make this spectrum available by auction to any interested parties, to allow licensees broad flexibility to determine what services to provide and, by avoiding build-out requirements, when to provide them. Rather than pigeonholing spectrum in advance for narrowly limited uses, licensees will be able to put the spectrum to the highest and best use the market can find. This will not only lead to more rational and efficient use of the wireless spectrum, but also will strongly promote the development of new technologies and new services.³

In contrast, some commenters would have the Commission take a giant step backward by mandating that particular services be moved to the above 40 GHz bands -- without regard to the fact that they can be provided more efficiently in other bands. Specifically, in order to serve their own interests, the members of the fixed satellite service industry urge the Commission to move local multipoint distribution services ("LMDS") to the band above 40 GHz. Their arguments should be rejected for two reasons.

² See Amendment of Parts 2 and 15 of the Commission's Rules to Permit Use of Radio Frequencies Above 40 GHz for New Radio Applications, ET Docket No. 94-124, Notice of Proposed Rule Making (rel. Nov. 8, 1994) ("Notice").

³ For general discussions of the benefits of spectrum reform, see R.H. Coase, *The Federal Communications Commission*, 2 J.L. & Econ. 1, 14, 25 (1959).

First, contrary to the claims of the satellite interests,⁴ this is not the place to resolve issues concerning allocation of the 28 GHz band for LMDS and fixed satellite services. These issues are the subject of separate proceedings and were not part of the rulemaking notice here.⁵ While it is true that the Commission should expeditiously resolve any remaining issues concerning spectrum sharing in the 28 GHz band, these issues should be addressed in the LMDS rulemaking proceeding -- not here.⁶

Second, the satellite interests are wrong that moving LMDS to the above 40 GHz bands is an easy fix that leaves everyone a winner.⁷ On the contrary, this move would delay the introduction of LMDS service, increase its costs, and create additional operational hurdles.

Specifically, LMDS equipment is available today that operates in the 28 GHz band. In contrast, equipment to operate in the 40 GHz band is not generally available and, as the

⁴ See Comments of Hughes Communications Galaxy, Inc., at 2; Comments of NASA at 4; Comments of Teledesic Corp. at 2.

⁵ See Rulemaking to Amend Part 1 and Part 21 of the Commission's Rules to Redesignate the 27.5 - 29.5 GHz Frequency Band and to Establish Rules and policies for Local Multipoint Distribution Service, 9 FCC Rcd 1394 (1994).

⁶ The Commission should promptly issue a further rulemaking notice in the 28 GHz proceeding to address any spectrum sharing issues that the negotiated rulemaking committee was unable to resolve.

⁷ Comments of Hughes at 3; Comments of NASA at 4; Comments of Teledesic at 11.

Commission recognizes, development and implementation times at 40 GHz are likely to be significantly longer than those at 28 GHz.⁸ As a result, a move to 40 GHz would create an additional delay of two years or more for a service that already has been caught up in the regulatory pipeline for several years.⁹ Moving LMDS to the above 40 GHz band also will increase the cost of the service. In fact, the lag in developing equipment for use in the 40 GHz bands and the differences in the technical design of this equipment will result in component costs that easily could be double or more those for 28 GHz equipment.¹⁰

Moreover, while the satellite interests argue that the 28 and 40 GHz bands have similar characteristics, they nonetheless acknowledge that at 40 GHz rain attenuation is "somewhat more severe" and that there will be a "slight" increase in blockage from foliage.¹¹ At a minimum, these and other differences will create additional operational hurdles to overcome. And as one commenter points out, the various

⁸ Notice at ¶ 25.

⁹ The Commission approved the first experimental license as long ago as 1986, Call Sign KA2XLG, granted Aug. 1, 1986, for the tri-state area of New York, New Jersey and Pennsylvania, approved the first commercial operation in 1991, see Hyde Crest Management, Inc., 6 FCC Rcd 332 (1991), and initiated rulemaking proceedings in 1992, see Rulemaking to Amend Part 1 and Part 21 of the Commission's Rules to Redesignate the 27.5 - 29.5 GHz Frequency Band and to Establish Rules and policies for Local Multipoint Distribution Service, 8 FCC Rcd 557 (1993).

¹⁰ See Comments of Cellularvision at 6.

¹¹ Comments of Hughes at 4-5.

differences between the two bands may result in the need for more than 2 GHz of spectrum if LMDS is to operate in the higher bands.¹²

LMDS has been proven capable of providing consumers with a wireless alternative to their current cable TV provider. But it will enter the market in competition both with firmly entrenched cable operators, and with rapidly growing direct broadcast satellite services backed by the likes of Hughes -- one of the commenters that seek to consign LMDS to the 40 GHz bands. In order for LMDS to succeed under these circumstances, it is critical for it to enter the market at the earliest date and lowest cost possible. Forcing a move to the above 40 GHz bands, as urged by the satellite interests, would severely undermine the viability of LMDS as a competitive service.

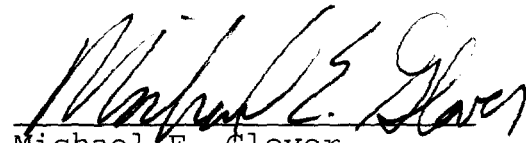
Moreover, a forced move for LMDS would send a message to entrepreneurs that if they can overcome the significant technical, cost and market risks to develop a viable new service, they still run the risk that the Commission will pull the rug out from under them at the eleventh hour. The result will be a significant chilling effect on the development of innovative, new wireless services in the future -- all of which is contrary to the Commission's statutory mandate to "encourage the provision of new technologies and services to the public."¹³

¹² Id. at 8.

¹³ 47 U.S.C. § 157(a).

Respectfully submitted,

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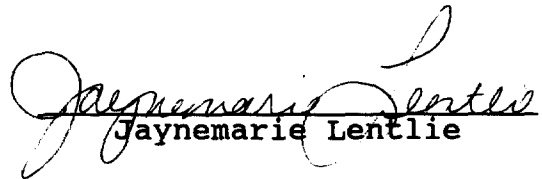
A handwritten signature in black ink, appearing to read "Michael E. Glover". The signature is written in a cursive, flowing style.

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March 1, 1995

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Reply Comments of Bell Atlantic" was served this 1st day of March, 1995 by first class mail, postage prepaid, on the parties on the attached list.


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